

Serial No. 10/773,250

Attorney Docket # 2270-001

REMARKS

Applicant wishes to thank the Examiner for the conditional allowance of claims 5 and 12 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant wishes to traverse Examiner's rejection of the remaining claims and has therefore elected to amend claims 1, 2 and 9 and to provide arguments supporting the allowability of said amended claims.

New claim 13 has been added which corresponds to allowed claim 12, and more particularly is claim 12 including the base claim 9 and the intervening claim 11 (12/11/9). Accordingly, claim 13 should be allowable. Claims 5 and 12 remain dependent on claims 1 and 9.

Applicant has amended the specification to more clearly describe the vertical and horizontal members as being in the same plane as shown in the Figures as originally filed.

Claim 8 is objected to because the preamble does not match the preamble of the Independent claim.

Applicant has amended the preamble of claim 8 to match the preamble of the independent claim and therefore Applicant believes that the claim is now in condition for allowance.

Claims 1-4 and 6-11 are rejected under 35 USC 102(b) as being anticipated by Faught US Patent 300,455.

Applicant has amended claims 1, 2 and 9 to more clearly define the angle arm as being attached to an inside side edge of the vertical and horizontal members and that the horizontal and vertical members are in the same plane. Support for the addition of the term "inside" to the claims is found in the specification at page 7, line 3 and in Figures 2a and 5a as originally filed. Support for the vertical and horizontal members being in the same plane is found in the Figures as originally filed.

Respectfully, Applicant wishes to traverse Examiner's rejection of claims 1-4 and 6-11 as having been taught by Faught. Faught does not contemplate stacking fence modules and therefore does not contemplate the need to connect the angle arm to the inside side edge of vertical and horizontal members, permitting stacking of one module within another as in Applicant's invention. Instead, Faught teaches assembly of the posts and fence proper in situ to create and fence, presumably transporting the components of the fence to the site for construction of the fence in situ.

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To be complete, Applicant wishes to point out to the Examiner that the apparatus taught by Faught, if the apparatus of Faught were preassembled into modules as in the instant invention, the modules would be inoperative to stack as taught by Applicant's invention. The brace C3 of Faught, which is analogous to the horizontal member of Applicant's invention for the purposes of this comparison only, is not in the same plane as the support C. Further, support C is not vertical and is not connected to an end of C3. Support A, analogous to the angle arm of Applicant's apparatus for the purposes of this comparison only, is not connected to the inside side edge of C. Therefore, insufficient space would be formed between end assemblies, constructed according to Faught, to permit stacking of one module within the other. Preassembly of the apparatus of Faught would also make the apparatus inoperative to be fixed to the ground as taught by Faught, the pin of one or other of A or C being incapable of insertion at an angle into the ground.

Thus, Applicant believes that claims 1-4 and 6-11 are in condition for allowance.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

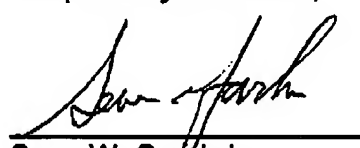
Applicant has attached hereto a Supplemental Information Disclosure Statement, including an additional reference (US 1,545,909 to McKinnon) cited in a communication within the last three months in a counterpart, corresponding Canadian patent application.

Reconsideration and allowance of claim 1-13 now on file is respectfully requested.

Date: 

Via facsimile to TC 2116 (Before Final) 1-703-872-9306

Respectfully submitted,


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